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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CHOW, MING

ART UNIT PAPER NUMBER

2645

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/897,239

Applicant(s)

KREDO ET AL.

Examiner

Ming Chow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1, 2, 3, 4, 6, 7, 8, 9, 13, 14, 15, 16, 18, 19, 20, 21, 25, 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “characteristic” is not clearly defined.
2. Claims 2, 3, 5, 14, 15, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “a portion” is not clearly defined.
3. Claims 3 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “possible” is not clearly defined.
4. Claims 3 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “unique” is not clearly defined.

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5. Claims 5 and 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "color" is not clearly defined.

6. Claims 1, 7, 10(a), 13, 14, 15, 16, 18, 19, 20, 21, 22, 25, 26, 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "instant" is not clearly defined.

7. Claims 10(a), 13, 22, 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "instant messaging service" is not clearly defined.

8. Claims 7 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "relative" is not clearly defined.

9. Claim 23 recites the limitation "the content" in claim 13. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 1, 2, 6, 8, 14, 18, 20, 25-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Griffith et al (US-PAT-NO: 6,366,651).

For claims 1, 13, 25, and 26, regarding section (a), Griffith et al teach on item 210 Fig. 2A “user inputs voice data”. The “voice data” of Griffith et al is the claimed “audio command”. It is inherent that the voice data must have a message meaning with a message characteristic.

Regarding section (b), Griffith et al teach on item 211 Fig. 2A “communication device converts voice data to text message”. The “converts” of Griffith et al is the claimed “creating”. The “text message” of Griffith et al is the claimed “instant message”. It is inherent that the text message of Griffith et al must be created based on the message meaning and message characteristic.

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Regarding section (c), Griffith et al teach on item 214 Fig. 2A “communication device initiates communication connection to destination requested by user”. The “initiates communication connection” of Griffith et al is the claimed “sending”. The “destination” of Griffith et al is the claimed “second user”.

Regarding claims 2, 14, and 27, Griffith et al teach on item 213 Fig. 2A “user issues command to output text message”. It is inherent that the user must issue a destination address for output text message. The destination address and the voice data (the claimed command) together is the claimed “profile”. It is inherent that the instant message must be created from the profile (the portion of the claimed command) using message meaning and the message characteristic.

Regarding claims 6 and 18, it is inherent that the message characteristic must relate to personality if the message sender of Griffith’s system desires to describe personality in the message. Griffith et al also teach on item 211 Fig. 2A communication device converts voice data to text message. It is inherent that the communication device must select text corresponding to the message meaning for a given personality.

Regarding claims 8 and 20, it is inherent that Griffith’s system must have the characteristics of volume, personality, and emotion available for associating with the message.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith et al as applied to claim 1 above, and in view of Burkey et al (US-PAT-NO: 6,446,076). Griffith et al failed to teach the profile includes a plurality of unique text associated with a plurality of possible message characteristics for a given message meaning and wherein the creating step forms that at least a portion of the instant message with a chosen one of the plurality of unique text associated with a chosen one of the plurality of possible message characteristics. However, Burkey et al teach on column 14 line 55 – column 15 line 9 “pattern matching”. The “pattern” of Burkey et al is the claimed “profile”. The “element” of Burkey et al is the claimed “unique text”. The “placeholder” of Burkey et al is the claimed “characteristics”. Burkey et al teach on column 14 line 65 a placeholder is a special kind of element. (column 14 line 65 “special kind” is a characteristic). It would have been obvious to one skilled at the time the invention was made to modify Griffith et al to have the profile includes a plurality of unique text associated with a plurality of possible message characteristics for a given message meaning and wherein the creating step forms that at least a portion of the instant message with a chosen one of the plurality of unique text associated with a chosen one of the plurality of possible message

characteristics as taught by Burkey et al such that the modified system of Griffith et al would be able to support the profile, text, and characteristics to the system users.

12. Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith et al as applied to claim 1 above, and in view of Dowens et al (US-PAT-NO: 6,389,114). Griffith et al failed to teach the message characteristic relates to emotion and the creating step further comprises associating emotional indicia with text corresponding to the message meaning. It is inherent that the message must relates to emotion when the message sender sends a emotional message. However, Dowens et al teach on column 4 line 5 the conversion unit may be an automatic voice-to-text/text-to-voice unit incorporating voice recognition and speech synthesis devices. It is inherent that the emotional indicia must be associated with text corresponding to the message meaning by the voice-to-text unit. It would have been obvious to one skilled at the time the invention was made to modify Griffith et al to have the message characteristic relates to emotion and the creating step further comprises associating emotional indicia with text corresponding to the message meaning as taught by Dowens et al such that the modified system of Griffith et al would be able to support the emotional indicia to the system users.

13. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith and Dowens et al as applied to claim 4 above, and in view of Rivera et al (The Effects Of Emotional Icons On Remote Communication; Krisela Rivera et al, New Mexico State university, Department of Psychology, Las Cruces, NM 88003, April 13-18, 1996, CHI 96 Interactive Posters). Griffith and Dowens et al failed to teach the emotional indicia is at least one of the

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group consisting of an emoticon, emphasis imparted in at least a portion of the text corresponding to the message meaning, and color imparted in at least a portion of the text corresponding to the message meaning. However, Rivera et al teach on page 100 of the cited publication a group of the claimed emotional (Happy, Frustrated, etc. of Rivera et al) emoticon. It would have been obvious to one skilled at the time the invention was made to modify Griffith and Dowens et al to have the emotional indicia is at least one of the group consisting of an emoticon, emphasis imparted in at least a portion of the text corresponding to the message meaning, and color imparted in at least a portion of the text corresponding to the message meaning as taught by Rivera et al such that the modified system of Griffith and Dowens et al would be able to support the emoticon to the system users.

14. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith et al as applied to claim 1 above, and in view of Lynn (US-PAT-NO: 5,541,981). Griffith et al failed to teach the message characteristic relates to a relative volume and the creating step further comprises selecting a text format for the instant message corresponding to the relative volume. However, Lynn teaches on column2 line 48 storing a plurality of recorded audio messages and volume level data related to the messages. It would have been obvious to one skilled at the time the invention was made to modify Griffith et al to have the message characteristic relates to a relative volume and the creating step further comprises selecting a text format for the instant message corresponding to the relative volume as taught by Lynn such that the modified system of Griffith et al would be able to support the volume to the system users.

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15. Claims 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith et al as applied to claim 8 above, and in view of Rivera et al (The Effects Of Emotional Icons On Remote Communication; Krisela Rivera et al, New Mexico State university, Department of Psychology, Las Cruces, NM 88003, April 13-18, 1996, CHI 96 Interactive Posters). Griffith et al failed to teach at least one message characteristic is predefined for the command and is associated with the message meaning of the command in the creating step. However, Rivera et al teach on page 100 of the cited publication a group of the claimed emotional (Happy, Frustrated, etc. of Rivera et al) emoticon. The emoticon of Rivera et al is the claimed "characteristic". The "happy" of Rivera et al is the claimed command. The emoticon (the claimed characteristic) of Rivera et al is "predefined". It would have been obvious to one skilled at the time the invention was made to modify Griffith et al to have at least one message characteristic is predefined for the command and is associated with the message meaning of the command in the creating step as taught by Rivera et al such that the modified system of Griffith et al would be able to support the predefined characteristic to the system users.

16. Claims 10 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith et al as applied to claim 1 above, and in view of Boys (US-PAT-NO: 6,314,094). Regarding section (a), Griffith et al teach on item 223 Fig. 2A "user accesses retrieved data". The "accesses retrieved data" of Griffith et al reads on the claimed "receiving an instant message". It is inherent that there must be a second user to send the message. Griffith et al also teach on item 214 Fig. 2A "communication device initiates communication connection to destination requested by user". The "communication connection" of Griffith et al is the claimed "instant messaging

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service”. Regarding section (b) and (c), Griffith et al failed to teach creating content capable of being converted to an audio message to deliver to the telephony user; and sending the content to the telephony user via an audio browser. However, Boys teaches on column 9 line 48 “audio browser”. Boys also teaches on column 9 line 53 “the browser’s principle function is to contactand to activate a hyper-link thereby causing download and playing of audio content”. The “download” of Boys is the claimed “content”. The “playing” of Boys is the claimed “sending”. It would have been obvious to one skilled at the time the invention was made to modify Griffith et al to have creating content capable of being converted to an audio message to deliver to the telephony user; and sending the content to the telephony user via an audio browser as taught by Boys such that the modified system of Griffith et al would be able to support the audio browser to the system users.

Regarding claim 11, the modified system of Griffith et al in view of Boys as stated in claim 10 above failed to teach receiving and converting the content directed to the telephony user into an audible message and delivering the audible message to the telephony user. However, Boys further teaches on column 9 line 53 “the browser’s principle function is to contactand to activate a hyper-link thereby causing download and playing of audio content”. It is inherent that the content must be received and converted into an audible message. The “playing” of Boys is the claimed delivering. It would have been obvious to one skilled at the time the invention was made to modify Griffith et al and Boys to have receiving and converting the content directed to the telephony user into an audible message and delivering the audible message to the telephony

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user as taught by Boys such that the modified system of Griffith et al and Boys would be able to support the receiving, converting, and delivering to the system users.

17. Claims 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith et al as applied to claim 1 above, and in view of Hodges et al (US-PAT-NO: 6,449,365). Griffith et al failed to teach sending an alert to the telephony user via at least one of the group consisting of calling, sending and email, sending a message via a short message service, and sending a page. However, Hodges et al teach on column 9 line 42 the notification server may transmit a notification message using a conventional short message service (SMS). Hodges et al also teach on column 9 line 46 the notification server may also transmit a notification message to the recipient's conventional telephone. The "notification message" of Hodges et al is the claimed "alert". The "conventional telephone" of Hodges et al reads on the claimed "calling". It would have been obvious to one skilled at the time the invention was made to modify Griffith et al to have sending an alert to the telephony user via at least one of the group consisting of calling, sending and email, sending a message via a short message service, and sending a page as taught by Hodges et al such that the modified system of Griffith et al would be able to support the alert to the system users.

18. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith et al as applied to claim 13 above, and in view of Boys (US-PAT-NO: 6,314,094). Griffith et al failed to teach an audio browser adapted to convert the content directed to the telephony user into an audible message and deliver the audible message to the telephony user via the audio browser.

However, Boys teaches on column 9 line 53 “the browser’s principle function is to contactand to activate a hyper-link thereby causing download and playing of audio content”. It is inherent that the content must be received and converted into an audible message. The “playing” of Boys is the claimed delivering. It would have been obvious to one skilled at the time the invention was made to modify Griffith et al to have an audio browser adapted to convert the content directed to the telephony user into an audible message and deliver the audible message to the telephony user via the audio browser as taught by Boys such that the modified system of Griffith et al would be able to support the convert and deliver to the system users.

Conclusion

19. The prior art made of record and not replied upon is considered pertinent to applicant’s disclosure.

- Mayer (US-PAT-NO: 6,282,511) teach voiced interface with hyperlinked information.
- Luneau (US-PAT-NO: 6,038,443) teaches calling party announcement apparatus.

20. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (703) 305-4817. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Fan Tsang, can be reached on (703)

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305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to TC2600's Customer Service FAX Number 703-872-9314.

Patent Examiner

Art Unit 2645

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